

Statement for the Record of

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before the

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Introduction

Good morning, Chairman Oxley, Congressman LaFalce, and members of the Committee. I appreciate this opportunity to discuss the work of the Terrorism Financial Review Group and our use of the provisions contained in Title III of the USA PATRIOT Act, also known as the International Money Laundering and Anti-Terrorist Financing Act of 2001.

I would like to thank the members of this Committee, and this Congress, for your prompt and comprehensive response to the terrorist threat we face. I would also like to thank the Treasury Department and Secretary O'Neil for their crucial assistance in this endeavor. The USA PATRIOT Act provided law enforcement powerful tools to carry out our mission. As we use these tools in an aggressive and responsible manner, the Act will significantly help us achieve our overarching goal - to prevent future acts of terrorism.

As you know, civilized countries face grave threats from terrorists. As the President stated, the war on terrorism is a long-term battle. It will not be won overnight nor without the extraordinary cooperation and coordination among law enforcement and intelligence agencies around the globe. Terrorism knows no borders. The threat is not limited to any one region of the world. Creating an alliance between law enforcement and

intelligence agencies is the key to dismantling terrorist organizations and eliminating the threat they pose.

Terrorists do not play by the rules of a civilized society. Fighting the war on terrorism requires new and formidable tools and a multi-agency approach. After 9/11, more than one-half of our Agents were assigned to identify the hijackers and their international sponsors and, with other agencies, prevent the next attack. Today, the number of FBI Agents assigned to combating terrorism is twice the number of our pre-9/11 commitment. We will apply to prevention whatever level of resources is necessary to address this threat. In addition, 9/11 has triggered a wide range of organizational and operational changes within the FBI.

The Terrorism Financial Review Group (TFRG)

To illustrate how these anti-money laundering provisions aid our efforts, it is necessary to understand how the FBI has been re-structured to address terrorist financing matters. Identifying and tracking the financial structure supporting terrorist groups is critical to dismantling the organization and preventing future attacks. As in ordinary criminal investigations, "following the money" identifies, links, and develops evidence against those involved in criminal activity. In the early stages of the investigation into the events of September 11, it was financial evidence that quickly established links between the hijackers and identified co-conspirators.

It was also in the early stages of the 9/11 investigation that the FBI and DOJ identified a critical need for a more comprehensive, centralized approach to terrorist financial matters. In response, we established an interagency Terrorism Financial Review Group (TFRG) operating out of FBI Headquarters. By bringing together vast databases and the expertise of numerous federal agencies, the TFRG focuses a powerful array of resources on the financial tentacles of terrorist organizations.

After September 11th, the FBI and CIA quickly combined their resources to investigate terrorist funding mechanisms, including the exchange of personnel between the TFRG and the CIA Counterterrorism Center (CTC). In addition, at my request, the CIA generously agreed to detail a number of its analysts to the FBI Counterterrorism Division to help

develop more effective analytical processes. I firmly believe the relationship and information sharing with the CIA is at an unparalleled level and will continue to pay dividends in our common mission. Information sharing has also been facilitated by PATRIOT Act provisions that permit the FBI to disclose foreign intelligence information, including information obtained through FISA, to intelligence agencies.

The TFRG was formed with a two-fold mission. First, it was designed to conduct a comprehensive financial analysis of the 19 hijackers to link them together and to identify their financial support structure within the United States and abroad. Second, it was designed as a template for preventive and predictive terrorist financial investigations. The mission of the TFRG has since evolved into a broader effort to identify, investigate, prosecute, disrupt, and dismantle all terrorist-related financial and fund-raising activities.

The TFRG has taken a leadership role in coordinating the financial investigative effort, and it is a comprehensive one. To accomplish this mission, it has implemented initiatives to address all aspects of terrorist financing. For instance, it:

- conducts full financial analyses of terrorist suspects and their global financial support structures;

- coordinates liaison and outreach efforts to exploit financial resources of private, government and foreign entities;

- uses FBI and Legat expertise and relationships to develop financial information from foreign law enforcement and private agencies;

- works jointly with the law enforcement, regulatory, and intelligence communities;

- develops predictive models and mines data to proactively identify terrorist suspects, and;

- provides the financial component to classified counterterrorism

investigations in support of the FBI's counterterrorism responsibilities.

The TFRG has conducted an aggressive international outreach program to share information regarding terrorist financing methods with the financial community and law enforcement, and has built upon long-established relationships with the financial services community in the United States and abroad. The international outreach initiative is coordinated through the network of FBI Legal Attache Offices located in 44 key cities worldwide, providing coverage for more than 200 countries and territories.

A significant focus of the TFRG is prediction and prevention. It has developed numerous data mining projects to provide further predictive abilities and maximize the use of both public and private database information. These efforts are complemented by the centralized terrorist financial database which the TFRG developed. This information is used to identify terrorist cells operating in the United States and abroad to prevent further terrorist acts. Indeed, the TFRG meets regularly with representatives from the banking community and the financial services industry to share information and to refine methods to detect and identify potential terrorists around the world.

The TFRG created and updates a financial control list which contains names and identifying data for individuals under investigation for potential links to terrorist organizations. These lists are regularly shared with domestic and international law enforcement and intelligence agencies, and with the Federal Reserve Board (FRB), which disseminates the lists to financial institutions so they can flag suspicious financial activity.

As a participant on the National Security Council's Policy Coordinating Committee (PCC) on terrorist finance, the TFRG leads the effort to target Non-Governmental Organizations believed to provide financial support to known Foreign Terrorist Organizations and affiliated terrorist cells. The PCC coordinates the development and implementation of policies to combat terrorist financing and provides analysis on these issues. Numerous FBI Field Offices have open investigations into organizations that may be funneling money to Foreign Terrorist

Organizations and the TFRG has acted as a clearinghouse for these cases, gathering and summarizing data.

The TFRG regularly shares information with the Joint Terrorist Tracking Task Forces, Customs' Operation Green Quest (TFRG provides daily downloads from its RAID database to Green Quest), and FinCEN. Further, the TFRG is working with FinCEN to explore new ways to data mine the Suspicious Activity Report (SAR), Currency Transaction Report (CTR), and Currency and Monetary Instrument Report (CMIR) databases.

Based on its international investigative abilities, and its close association with the Intelligence Community, the TFRG is in a unique position to coordinate anti-terrorism financial investigations and to ensure those investigations are coordinated with the goals and objectives of our Counterterrorism program.

Use of the USA PATRIOT Act

Terrorist financing methods range from the highly sophisticated to the most basic. Traditionally, their efforts have been aided considerably by the use of correspondent bank accounts, private banking accounts, offshore shell banks, bulk cash smuggling, identity theft, credit card fraud, and other criminal operations. Informal Value Transfer Systems, such as "Hawalas," also present problems for law enforcement. They permit terrorists a means of transferring funds that is difficult to detect and trace. These informal systems are particularly prevalent in mostly "cash" societies such as Pakistan, Afghanistan, and the Phillippines. However, provisions of the USA PATRIOT Act will significantly erode the effectiveness of such methods. The Act establishes stricter rules for correspondent bank accounts, requires securities brokers and dealers to file SARs, and certain cash businesses to register with FinCEN and file SARs for a wider range of financial transactions.

The Act contains many other provisions I believe will considerably aid our efforts to address terrorist financing. These include the authority to seize terrorist assets, and the addition of terrorism and other offenses to the list of racketeering offenses. The Act also enables prosecutors to seize money subject to forfeiture in a foreign bank account by authorizing the

seizure of a foreign bank's funds held in a U.S. correspondent account. Other important provisions expand the ability to prosecute unlicensed money transmitters, allow law enforcement faster access to reports of currency transactions in excess of \$10,000, and provide authority for the service of administrative subpoenas on foreign banks concerning records of foreign transactions. This latter provision allows law enforcement to obtain critical information in an investigation on a more timely basis than was possible before. In counterterrorism investigations, of course, speed is of the essence because prevention is the goal.

Section 362 of the PATRIOT Act mandates that FinCEN establish a highly secure network to 1) allow financial institutions to file SARs and CTRs on-line, and 2) "provide financial institutions with alerts and other information regarding suspicious activities that warrant immediate and enhanced scrutiny." FinCEN has developed the PATRIOT Act Communication System (PACS) to meet this mandate and is implementing the system. This will be a valuable tool for law enforcement, but it will require the full cooperation of private financial institutions. The TFRG has worked with financial institutions, and has provided to them information to help detect patterns of activity possibly associated with terrorist activity. I am confident that the PACS will help considerably in these efforts.

While I am optimistic the PATRIOT Act will help, it is too early to judge its full effect. We continue to digest its provisions, develop guidelines and protocols for its appropriate use, and educate investigators and prosecutors. In addition, many of its provisions require the Department of the Treasury to issue new regulations -- regulations which it is still working expeditiously to promulgate.

Additional Legislative Needs

The Committee indicated an interest in recommendations the FBI has regarding additional legislative measures to advance the financial war against terrorism. In September 2001, the Department of Justice submitted the proposed "Money Laundering Act of 2001" to Congress. The FBI concurs with the recommendations made by the DOJ, which is in the best position to address these issues, and would also urge you to consider them. I would like to summarize these recommendations and proposals.

The foremost problem we face regarding the recovery of criminal proceeds in terrorism cases, as well as those involving corporate fraud, is the inability to freeze assets pending trial. In both criminal and civil cases, with a limited exception, pre-trial restraining orders are limited to property directly traceable to the offense. Post-conviction, the court can enter an order permitting the confiscation of an amount of money equal to what the defendant obtained by committing the offense, but by that time the money we hope to recover - and return to the victims - is often gone.

These strict tracing requirements serve little purpose. Many common law countries permit the pre-trial restraint of property that will be subject to forfeiture without requiring strict tracing of the funds to the underlying crime. It is important to the success of our efforts against the economic underpinnings of crime that we be able to do the same. Simply put, if the property can be confiscated after the conviction, it should be frozen prior to a conviction. Thus, the criminal forfeiture laws should be amended to allow the pre-trial restraint of all forfeiture assets without requiring strict tracing to the offense, and the civil forfeiture laws should be amended to treat all electronic funds - as well as diamonds, gold and other precious metals - as fungible property for the period of the applicable statute of limitations.

We also need to address the clandestine movement of cash that represents the proceeds of crime or that will be used to finance a future criminal or terrorist act. Section 371 of the PATRIOT Act created a new offense of bulk cash smuggling that makes it illegal to knowingly conceal more than \$10,000 in currency and attempt to transport it into or out of the United States with the intent to evade currency reporting requirements. However, it is not an offense for a money courier to transport bulk currency in a vehicle inside the country, even if the funds represent criminal proceeds. Moreover, terrorists engage in what amounts to "reverse" money laundering, in which they transport large quantities of cash that is not derived from any illegal source but which is intended to be used to finance a terrorist act or to commit another crime. The DOJ proposed to make it illegal to transport more than \$10,000 in currency concealed in a vehicle traveling in interstate commerce, knowing that the currency was derived from some kind of criminal activity or knowing that the currency was intended to be used to promote such activity. I support this, too.

The DOJ noted gaps in our ability to seize proceeds resulting from foreign crimes as well as our ability to restrain the funds, even temporarily, of criminals arrested in the United States. Under current law, only a limited number of foreign crimes are specified unlawful activities. This enables foreign criminals to launder the proceeds of many foreign crimes in the United States without providing us the ability to prosecute and seize those funds for forfeiture. We similarly lack authority to temporarily restrain funds in a U.S. bank account of an international terrorist arrested in the United States to determine whether such funds were connected to illegal activity.

Conclusion

The PATRIOT Act is an important and necessary fix and its passage was a remarkable achievement. The Act will make --and has made-- a difference. It enhances the ability of law enforcement and intelligence agencies to achieve our common goal of preventing acts of terrorism, without compromising the civil liberties and Constitutional protections enjoyed by our citizens. The PATRIOT Act is a shining example of this Committee's devotion to that endeavor and I thank you for your support.

I am proud to lead the premier law enforcement agency in the world . We take great pride in what we do, and the quality of the work performed by the men and women of the FBI is remarkable. Of course, there is always room for improvement and we welcome your guidance.

Thank you for this opportunity to appear today. I look forward to working together in the war against terrorism. I welcome any questions you have.